

MDR Tracking Number: M5-04-2285-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 03-15-04.

The IRO reviewed work hardening initial and work hardening each additional rendered on 05-08-03, 05-09-03 and 07-01-03 were denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee. The respondent raised no other reasons for denying reimbursement for the above listed services.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 06-08-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

CPT code 97750-FC date of service 05-05-03 denied with denial code "D" (duplicate). The carrier did not provide information to substantiate what service 97750-FC was a duplicate to. Reimbursement is recommended per the 96 Medical Fee Guideline MEDICINE GR I (E)(2)(a) in the amount of \$500.00

CPT code 97545-WH-AP and 97546-WH-AP date of service 05-12-03 (7 units) denied with denial code "D" (duplicate). The carrier did not provide information to substantiate what service codes 97545-WH-AP and 97546-WH-AP were duplicates to. Reimbursement is recommended per the 96 Medical Fee Guideline MEDICINE GR II (E)(4)(5) in the amount of \$448.00 (\$64.00 X 7 units).

Review of CPT code 97545-WH-AP (8 units) dates of service 05-14-03 through 06-04-03 (8 DOS) revealed that neither the respondent nor requestor submitted EOB's. Per Rule 133.308(f)(2)(3) the requestor submitted proof of resubmission or convincing evidence of carrier receipt of reconsideration submission. The

requestor billed \$1,024.00 (\$128.00 X 8 units). The MAR per the 96 Medical Fee Guideline MEDICINE GR II (E)(5) is \$64.00 per hour. Reimbursement is recommended in the amount of \$512.00 (\$64.00 X 8 DOS).

Review of CPT code 97546-WH-AP (48 units) dates of service 05-14-03 through 06-04-03 (8 DOS) revealed that neither the respondent nor requestor submitted EOB's. Per Rule 133.308(f)(2)(3) the requestor submitted proof of resubmission or convincing evidence of carrier receipt of reconsideration submission. Per the 96 Medical Fee Guideline MEDICINE GR II (E)(5) reimbursement is \$64.00 per hour. Reimbursement in the amount of \$3,072.00 (\$384.00 (6 units) X 8 DOS) is recommended.

CPT code 97545-WH-AP (2 units) dates of service 06-06-03 and 06-12-03 denied with denial code "F" (fee guideline reduction). Audit reports submitted by the carrier reflect recommended allowances. Contact was made via phone with the requestor's office @ \_\_\_\_ and verification was made with \_\_\_\_ that no payment had been received. Reimbursement per the 96 Medical Fee Guideline MEDICINE GR II(E)(5) is \$64.00 per hour. Reimbursement is recommended in the amount of \$72.00 (\$128.00 minus carrier payment of \$56.00 on DOS 06-12-03).

CPT code 97546-WH-AP (12 units) dates of service 06-06-03 and 06-12-03 denied with denial code "F" (fee guideline reduction). Audit reports submitted by the carrier reflect recommended allowances. Contact was made via phone with the requestor's office @ \_\_\_\_ and verification was made with \_\_\_\_ that no payment had been received. Reimbursement per the 96 Medical Fee Guideline MEDICINE GR II(E)(5) is \$64.00 per hour. Reimbursement is recommended in the amount of \$552.00 (\$384.00 X 2 DOS = \$768.00 minus carrier payment on DOS 06-12-03 in the amount of \$216.00)

CPT code 97750-FC date of service 06-06-03 denied with denial code "L" (not approved treatment/ physician). The requestor did not provide information that they are the treating physician. Reimbursement is not recommended.

CPT codes 97545-WH-AP and 97546-WH-AP date of service 06-09-03 denied with denial code "L" (not approved treatment/ physician). The requestor did not provide information that they are the treating physician. Reimbursement is not recommended.

CPT codes 97545-WH-AP and 97546-WH-AP dates of service 06-10-03, 06-11-03, 06-16-03 and 06-19-03 (28 units) denied with denial code 111-002 (non-contracted provider). Reimbursement is recommended per the 96 Medical Fee Guideline MEDICINE GR II(E)(5) in the amount of \$1,792.00 (\$64.00 X 28 units).

This Findings and Decision is hereby issued this 5th day of November 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

DLH/dlh

### **ORDER**

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision is applicable for dates of service 05-05-03 through 06-19-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 5th day of November 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/dlh

May 13, 2004

Rosalinda Lopez  
Texas Workers' Compensation Commission  
Medical Dispute Resolution  
Fax: (512) 804-4868

Re: Medical Dispute Resolution  
MDR #: M5-04-2285-01  
TWCC#:  
Injured Employee:  
DOI:  
SS#:  
IRO Certificate No.: 5055

Dear Ms. Lopez:

\_\_\_ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, \_\_\_ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of \_\_\_ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

## **REVIEWER'S REPORT**

### **Information Provided for Review:**

TWCC-60, Table of Disputed Services, EOB's  
Letter of medical necessity 04/26/04; doctor's exams 01/23/03 & 10/16/03; H&P and clinical notes 04/29/02 thru 09/09/03; work hardening documentation 05/20/03 thru 06/30/03; FCE/ERGOS reports 05/03/99 & 09/09/03; bone scan 12/06/02; CT scan 11/20/02; radiographic report 04/29/02; MRI 05/31/02

### **Clinical History:**

The patient injured his foot on the job on \_\_\_. He did not have pain initially. The pain did come approximately 30 minutes later. By that time, his shift was over. He punched out and went home; this was on Friday. The next day on Saturday, he noticed considerably more pain and swelling in his foot. There was no one at home to take him to the doctor. On Sunday, he did have someone at home and they took him to the emergency room where he was evaluated and x-rayed. There was no definitive fracture found at that time. He was only put in a partial splint and referred to a specialist. He was seen by a specialist who examined the patient and placed him in an ambulator boot and sent him back to work.

Over a period of 1-2 weeks, his condition continued to deteriorate, and he sought care at another facility. Over a course of the next year the patient had extensive diagnostic testing, therapy, and additional consultations from other specialists. There were several FCEs performed in an attempt to document this patient's injuries and his progression through treatment.

### **Disputed Services:**

Work hardening/conditioning-initial and work hardening/conditioning-each additional hour on 05/08/03, 05/09/03 and 07/01/03.

**Decision:**

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the work hardening/conditioning in dispute as stated above was not medically necessary.

**Rationale:**

The National Treatment Guidelines allow for treatment of this type of injury; however, not to the magnitude, intensity, and frequency that this patient received. There is not sufficient clinical documentation or severity of this patient's injury to warrant such an aggressive intensive work-hardening program in order for the patient to recover from his injuries. Given the time of his original accident of \_\_\_\_ and the initiation of a work-hardening program on 5/8/03, there was approximately 1 year of intensive ongoing treatment of this patient's on the job injury. During that time, there was ample opportunity for this patient to be adequately rehabilitated as well as appropriately instructed in a home exercise program, which would allow him to return to the work force given the nature and extent of this patient's on the job injury. There is not sufficient clinical justification to warrant a work-hardening program.

Sincerely,